

1 STATE OF NEW HAMPSHIRE
2 SITE EVALUATION COMMITTEE

3 December 1, 2008 - 9:00 a.m.
4 21 South Fruit Street
5 Suite 10, Room 103
6 Concord, New Hampshire

7 In re: SITE EVALUATION COMMITTEE:
8 Docket No. 2008-002: Application of
9 Tennessee Gas Pipeline Co. for a
10 Certificate of Site and Facility for
11 the Concord Lateral Expansion Project.

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15 PRESENT:

SITE EVALUATION COMMITTEE:

16 Thomas S. Burack, Cmsr. Dept. of Environmental Services
(Chairman of SEC - Presiding Officer)

17 Thomas B. Getz, Chrmn. Public Utilities Commission
(Vice Chairman of SEC)

18 Graham J. Morrison, Cmsr. Public Utilities Commission

19 Clifton C. Below, Cmsr. Public Utilities Commission

20 Harry T. Stewart, Dir. DES - Water Division

21 Robert Scott, Dir. Air Resources Division (DES)

22 George Bald, Cmsr. Dept. of Resources & Econ. Dev.

23 Glenn Normandeau, Dir. N.H. Fish & Game Department

24 Amy L. Ignatius, Dir. Office of Energy & Planning

25 Randall Knepper Public Utilities Commission

26

27

28 COURT REPORTER: Steven E. Patnaude, LCR No. 52

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2 ALSO PRESENT: Michael Iacopino, Esq.
3 Counsel for the Committee

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5 Cedric Dustin
6 Administrator for the Committee

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Peter C. L. Roth, Esq.
6 Senior Assistant Attorney General
N.H. Dept. of Justice
7 Counsel for the Public
Reptg. Tennessee Gas Pipeline Co.:
8 Donald Pfundstein, Esq. (Gallagher...)
Jay Allen, Esq. (El Paso Pipeline Group)

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THOMAS FILLIP (Added at Page 56)
JOHN ZIMMER (Added at Page 63)

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1 P R O C E E D I N G S

2 CHAIRMAN BURACK: Good morning, ladies
3 and gentlemen. My name is Tom Burack. I am the
4 Commissioner of the New Hampshire Department of
5 Environmental Services and serve as the Chair of the State
6 of New Hampshire Site Evaluation Committee. We are here
7 today to consider Docket Number 2008-02, which is the
8 Application of Tennessee Gas Pipeline Company for a
9 Certificate of Site and Facility for the Concord Lateral
10 Expansion Project.

11 And, at this time, I would like to ask
12 the members of the Committee to please introduce
13 themselves.

14 DIR. NORMANDEAU: Glenn Normandeau,
15 Director of Fish & Game.

16 CMSR. BALD: George Bald, Commissioner,
17 Department of Resources & Economic Development.

18 DIR. STEWART: Harry Stewart, Water
19 Division Director, Department of Environmental Services.

20 DIR. SCOTT: Bob Scott, Director of Air
21 Resources Division, Department of Environmental Services.

22 CMSR. BELOW: Clifton Below, Public
23 Utilities Commissioner.

24 VICE CHAIRMAN GETZ: Tom Getz, Chairman
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1 of the Public Utilities Commission, Vice Chair of this
2 Committee.

3 CMSR. MORRISON: Graham Morrison, Public
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4 Utility Commissioner.

5 MR. KNEPPER: Randy Knepper, Director of
6 the Safety Division of the Public Utilities Commission.

7 DIR. IGNATIUS: Amy Ignatius, Director
8 of the Office of Energy & Planning.

9 CHAIRMAN BURACK: And, seated to my
10 immediate right is Attorney Michael Iacopino, who serves
11 as legal counsel to the Site Evaluation Committee for this
12 matter. And, also with us is Cedric Dustin, who is the
13 Administrator for this matter for the Site Evaluation
14 Committee.

15 I'm going to read a brief introduction
16 here, and then turn things to counsel for the party and
17 Public Counsel as well, and ask at that time that you all
18 introduce yourselves.

19 On April 22, 2008, Tennessee Gas
20 Pipeline Company, the Applicant, filed an Application for
21 a Certificate of Site and Facility for the Concord Lateral
22 Expansion Project, also known as the "Application". The
23 Application seeks a Certificate of Site and Facility,
24 known as the "Certificate", for the construction and

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1 operation of an energy facility in Pelham, Hillsborough
2 County, New Hampshire, consisting of a new 6,130
3 horsepower compression station on the Applicant's Line 200
4 system known as the "Concord Lateral System", otherwise
5 known as the "Lateral", in Pelham, New Hampshire. The
6 construction and operation of the compressor will allow
7 the Applicant to provide an incremental 30,000 dekatherms
8 per day of capacity to EnergyNorth. The Application for a

9 Certificate of Site and Facility also seeks approval of
10 upgrades at the Applicant's existing Laconia Meter
11 Station, which is located in Concord, New Hampshire, known
12 as the "Meter Station", including piping modifications to
13 accommodate the additional capacity.

14 The facilities are proposed to be
15 located on private property located in Pelham,
16 Hillsborough County, New Hampshire and in Concord,
17 Merrimack County, New Hampshire. The new compressor
18 station will be located on a parcel of land identified by
19 the Town of Pelham Tax Map as Lot 1-5-111, that's the map,
20 parcel and lot numbers. The Pelham location consists of
21 11.6 acres, of which 4.2 acres will be fenced to contain
22 the compressor building and required auxiliary buildings.
23 The upgrades at the Meter Station in Concord, New
24 Hampshire, will occur at 17 Broken Bridge Road, Concord,

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1 New Hampshire. The Meter Station is an existing structure
2 located within a fenced area in Concord, and occupies
3 0.50 acres.

4 The compressor station in Pelham is
5 proposed to consist of a 6,130 horsepower turbine-driven
6 centrifugal compressor unit fueled by natural gas that
7 will be installed inside a new compressor building.
8 Associated facilities that will also be constructed and
9 operated by the Applicant include a filter separator,
10 discharge gas cooler, and blow down silencer, control
11 building, and an auxiliary building.

12 In order to accommodate the increased
13 capacity created by the proposed compressor unit in

14 Pelham, the Applicant also seeks approval of plans to
15 modify station piping at its existing Meter Station
16 located in Concord, Merrimack County, New Hampshire. The
17 existing Meter Station is comprised of two measuring
18 facilities; the Concord measuring facility and the Laconia
19 measuring facility. The Applicant proposes to replace a
20 total of approximately 60 feet of existing 4-inch and
21 6-inch pipe from Line 273C-100 to the Laconia measuring
22 facility with 12-inch pipe. Additionally, existing 6-inch
23 piping within the meter station will be reconfigure and
24 reconnected between Lines 273C-100 and 270B-100 to serve

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1 as a tie-over line to insure continuous service in the
2 event of outages on the primary line.

3 On June 16, 2008, the Committee held a
4 hearing for the purpose of reviewing the Application, in
5 order to determine if it contained sufficient information
6 for the Committee to carry out the purposes of RSA 162-H.
7 The Committee found that the Application did contain
8 sufficient information and accepted the Application by
9 order dated June 20, 2008.

10 On July 16, 2008, the Committee visited
11 the proposed sites in Concord and Pelham, New Hampshire
12 for the purpose of conducting site inspections. Also, on
13 July 16, 2008, the Committee held public information
14 hearings in Concord and in Pelham. At the public
15 information hearings, the Applicant presented information
16 to the public, and questions and comments from the public
17 were received by the Committee.

18 When an Application for a Certificate of
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19 Site and Facility is filed, RSA 162-H provides that the
20 Attorney General shall appoint an attorney to serve as
21 Counsel to the Public. Counsel to the Public represents
22 the public in seeking to protect the quality of the
23 environment and in seeking to assure an adequate supply of
24 energy. Counsel to the Public is accorded all the rights

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1 and privileges, and responsibilities of an attorney
2 representing a party in a formal action. The Attorney
3 General has appointed Senior Assistant Attorney General
4 Peter Roth to serve as Counsel to the Public, and Mr. Roth
5 is present here today. No other parties have sought to
6 intervene in this docket.

7 In this proceeding, we will first take
8 appearances. I will then permit a short period of public
9 comment to accommodate any members of the public who may
10 not be able to stay until the end of the proceeding.
11 Then, the Applicant may present its witnesses, along with
12 any prefiled testimony and exhibits. I understand,
13 however, that there may be some other arrangements that
14 will be proposed by counsel and Counsel to the Public.
15 But there will be an opportunity, if there are witnesses,
16 for cross-examination by Public Counsel. Thereafter, any
17 members of the Committee may pose questions to the witness
18 or to counsel.

19 When the Applicant has rested its case,
20 we will then allow Public Counsel to present any
21 information that he chooses to present to the Committee.
22 But, at this point, I understand there is no prefiled --
23 there has been no prefiled testimony. We will certainly

24 hear from the Applicant about any information that Public
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1 Counsel wishes to present. The Committee may also have
2 questions about any information that Public Counsel
3 presents. And, when Public Counsel has concluded his
4 presentation, I will again open the floor to public
5 comment. I will then close the adjudicative proceeding
6 and, if appropriate, although I'm not sure that time will
7 permit today, we will then move into a deliberative
8 proceeding, at which time the Committee will consider the
9 merits of the Application.

10 And, just in the interest of full
11 disclosure for all concerned, my hope is to be able to
12 recess this portion of this proceeding at approximately 20
13 minutes of 12:00 today.

14 So, with that, I would now like to ask
15 for appearances.

16 MR. PFUNDSTEIN: Thank you, Mr.
17 Chairman. My name is Donald Pfundstein, with Gallagher,
18 Callahan & Gartrell, and we appear on behalf of the
19 Applicant, Tennessee Gas Pipeline Company. With me today
20 is the gentleman who's my boss in this proceeding, Jay
21 Allen, the Senior Counsel of Tennessee Gas; to his left is
22 Michael Stokdyk of Tennessee Gas; to Mike's left is Tom
23 Fillip, the Project Engineer with Tennessee Gas. And,
24 behind me are three gentlemen, Steve Rogers, of Tennessee

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1 Gas Operations; Dave Jones, noise consultant to Tennessee

2 Gas; and John Zimmer, an environmental consultant to
3 Tennessee Gas.

4 CHAIRMAN BURACK: Thank you. Attorney
5 Roth.

6 MR. ROTH: Good morning, Mr. Chairman,
7 members of the Committee. I'm Peter Roth. I'm from the
8 Attorney General's Office. And, I'm Counsel for the
9 Public in this proceeding.

10 CHAIRMAN BURACK: Is there any public
11 comment to be made at this time?

12 (No verbal response)

13 CHAIRMAN BURACK: Okay. Thank you.
14 Please proceed.

15 MR. PFUNDSTEIN: Thank you, Mr.
16 Chairman. Public Counsel and the Applicant, as well as
17 Counsel for the Committee, was able to come up with a
18 proposed process for this proceeding, if, in fact,
19 acceptable to the Chair and Committee. We have agreed --
20 The Applicant agrees to construct the compressor station
21 in substantial compliance with the noise report which was
22 filed and dated November 6th. In the light of that
23 undertaking, we understand Public Counsel will have no or
24 very limited questions of the Company witness.

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1 Both the Applicant and Public Counsel
2 have a list of exhibits. All of the exhibits can be
3 entered into evidence by agreement of the parties. And,
4 at the appropriate moment, we would, with the Chair's
5 blessing, proceed to mark those exhibits. But there are
6 two other procedural process matters, which are important.

7 One is the parties prefer to, in light of the truncated
 8 manner in which we're going to proceed this morning, to
 9 file post-hearing memos, which would be limited to the
 10 issue really in dispute between the Applicant and Public
 11 Counsel, which it involves noise. And, we would propose
 12 that those post-hearing memos be filed by Thursday,
 13 December 11th, which is essentially ten days from today.
 14 And, if necessary -- or, if appropriate, rather, either
 15 party would have an opportunity to file a reply memo.
 16 And, we would propose that that reply memo be filed no
 17 later than Monday, December 15th. So, the following
 18 Monday after the filing of the post-hearing submission.

19 We, as the Applicant, propose, and this
 20 is the arrangement we discussed with Public Counsel and
 21 Committee Counsel, to simply offer one witness today, and
 22 that would be Michael Stokdyk. Who will provide some
 23 context, and also address specifically what the Company
 24 proposes to do by way of construction and why, in the

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1 Company's view, that is not only appropriate, but a good
 2 thing.

3 So, with the Chair's blessing, we would
 4 propose that we proceed in this proceeding as I have
 5 outlined. And, if it's acceptable, we would then next
 6 proceed with marking of exhibits. At which time, when
 7 that is complete, I understand Public Counsel may like to
 8 address the Committee as well. After that, we would move,
 9 again, with the Chair's blessing, to offer Mr. Stokdyk,
 10 and hope we would be able to conclude in the referenced
 11 time frame. Thank you very much, Mr. Chairman.

12 CHAIRMAN BURACK: Thank you very much,
13 Attorney Pfundstein. I think that's a very appropriate
14 way for us to proceed. I just want to make sure, if we
15 hear from Mr. Stokdyk first, would he be making reference
16 to any of the exhibits that you intend to mark?

17 MR. PFUNDSTEIN: Yes. So, we would
18 proceed with marking the exhibits.

19 CHAIRMAN BURACK: I think it may make
20 more sense for us then, if we can, to mark the exhibits
21 first, and then --

22 MR. PFUNDSTEIN: And, that would be our
23 desire, too, Mr. Chairman.

24 CHAIRMAN BURACK: Okay. Why don't we
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1 proceed in that fashion.

2 MR. PFUNDSTEIN: Okay. The Applicant
3 has a number of exhibits, all but one of which have
4 previously been filed and copies provided to the entire
5 service list. The only addition on this list that is
6 different than the version that counsel has previously
7 seen was the addition of Exhibit I, which is the FERC
8 Order with respect to this project, which I also believe,
9 actually, after looking --

10 MR. ROTH: Which is on my list also.

11 MR. PFUNDSTEIN: Okay.

12 MR. ROTH: Great minds think alike.

13 MR. PFUNDSTEIN: Mr. Chairman, I have --
14 since the exhibits are being admitted by agreement of the
15 parties, is it my understanding that the stenographer will
16 physically mark the exhibits after the proceeding?

17 CHAIRMAN BURACK: That is correct.
18 (Whereupon Exhibits A through I were to
19 be so marked as identified and admitted
20 into evidence.)
21 MR. PFUNDSTEIN: Okay. Thank you very
22 much, Mr. Chairman.
23 MR. ROTH: Mr. Chairman, Counsel to the
24 Public has a list of 19 exhibits, many of which are also
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1 exhibits that were done by the Applicant. I have included
2 a few things from the FERC docket, and a couple of things
3 that I would loosely categorize as "scholarly treatise
4 information". I have a number of copies of my list, which
5 I've now provided -- did I give you one of these, Don?
6 Here you go.

7 MR. PFUNDSTEIN: Thank you.

8 MR. ROTH: And, I have a copy -- copies
9 of my 19 exhibits. One here for Attorney Pfundstein, and
10 then I have two copies of them for the Committee. I
11 apologize for not making 15 of them, but I suppose one can
12 go to our reporter and one to Committee Counsel. Thank
13 you.

14 CHAIRMAN BURACK: Thank you. We will
15 again mark these exhibits following the close of the
16 hearing.

17 (Whereupon Exhibits 1 through 19 were to
18 be so marked as identified and admitted
19 into evidence.)

20 MR. ROTH: With respect to -- I have a
21 number of copies of the -- this was easy to do last night

22 at 7:00, make copies of the list of exhibits. I can
23 provide those to the Committee, if that would be helpful.

24 CHAIRMAN BURACK: Thank you. If you
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1 would distribute those now, that would be helpful. Okay.
2 Attorney Pfundstein, would you like to call your first
3 witness?

4 MR. PFUNDSTEIN: Thank you, Mr.
5 Chairman. It seems as though -- excuse me, I believe
6 Public Counsel wanted to address the Committee.

7 MR. ROTH: Yes, I would, briefly. In a
8 fairly short period of time, we've taken a relatively
9 discrete matter and made much of it, and to my
10 satisfaction. We've had two public meetings, which I
11 attended. We have had two long and detailed technical
12 sessions, I believe there were just two, sometimes it
13 seems like more, and I made a number of data requests,
14 which I'm sure this Applicant found meddlesome and
15 irritating. I asked a lot of questions about this
16 project, and read the materials and the Application
17 thoroughly, and the responses that were provided to me,
18 and questioned them on such things as the management of
19 the project, because it will be managed somewhat by remote
20 control; the safety of the project, in terms of fire
21 safety and injury protection; the environmental impacts,
22 such as wetlands and run-off, and we went through a fairly
23 extensive discussion on whether they could employ
24 permeable parking surfaces, as opposed to pavement; the

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1 necessity of the size of this particular operation; the
2 impacts on -- in terms of air pollution; the visual
3 impacts; impacts on wildlife and hunting; and, perhaps
4 most intensely, impacts related to the noise that the
5 facility will produce.

6 Located within a half a mile of this
7 facility are 181 homes, which include 92 residents and
8 elderly housing project right adjacent to the facility.
9 There are more on the way. And, that's -- that project,
10 that residence is 688 feet away from this industrial
11 facility. And, the residents of that facility are elderly
12 people, who are sensitive to change, in terms of the
13 visual impact, the disruption caused by the construction,
14 and the visual, and as well as the noise. And, they may
15 have health concerns that could be aggravated or impacted
16 by the noise.

17 In addition, we have an area that was
18 characterized by FERC Staff in their environmental
19 assessment as "having a very, very low background noise
20 level." So, we're building an industrial facility, and a
21 relatively noisy one, in a quiet suburban environment.
22 Which is going to cause, according to the FERC staff, 6 to
23 10 decibel increases from the project, which is of
24 concern, especially in light of the fact that we have an

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1 elderly population living there.

2 Yet, having gone through a fairly
3 lengthy analysis and discussion with the Applicant, and
4 looked at the many reports that they have done, and you
5 can find -- you'll see their reports are included in my

6 exhibits number 5, 6, and 7, which are a June 9th report,
7 an October 28th report, and a November 6th report, have
8 concluded that, based on those reports, that the facility,
9 as constructed, in accordance with those reports, will
10 provide protection, to the extent it's possible, for those
11 residents in this neighborhood, in terms of the noise
12 impact.

13 And, in addition, if it turns -- I've
14 been assured at the technical sessions, and I think is
15 evident from the documents that were submitted by both of
16 us, in terms of the reports done by Mr. Jones of HFP
17 Acoustical, that there are additional measures that can be
18 employed, including acoustical lagging on pipes and
19 buildings and vents, and they can erect barrier walls
20 between the facility and the noise receptors.

21 So, I think that, in light of those
22 things, if the project is constructed as it has been
23 proposed, that it -- it should be constructed in that way,
24 and I think the Company has committed to do that. And,

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1 what I would propose, at least today, with respect to
2 today's proceeding, and I think will -- I'll argue it in
3 the memorandum of law that I would like to file, that
4 there be two conditions that are imposed with respect to
5 sound. One being that the project be constructed in
6 accordance with those reports, the November 6 report,
7 which essentially pulls from the October and June reports
8 by the sound consultant. And, that -- so, that's the
9 first condition that I would request. The second
10 condition that I would request is that there be a 50

11 decibel noise limitation at the nearest sensitive
 12 receptor, which is the housing community 688 feet away.
 13 Now, that's five decibels lower than the FERC regulatory
 14 limit. And, I suppose that will raise certain preemption
 15 issues, which we'll discuss in the briefs. But I'm
 16 confident that this particular issue, in light of the
 17 FERC's order in this case, and the FERC's overall position
 18 on preemption, that the 50 decibel limit is consistent
 19 with the FERC proceeding and will not unduly delay or
 20 prohibit this project.

21 In addition, you know, the 50 decibel
 22 limitation that I'm requesting is actually doable. And,
 23 according to their own report, with the improvements to
 24 the structure that they're proposing, they're looking at a

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1 46 to 48 decibel noise at the nearest sensitive receptor.
 2 So, I suggest 50, to build in a little bit of room for
 3 error, and provide them some cushion from the math of the
 4 laboratory calculations that they did to produce the 46 to
 5 48 decibels.

6 The 50 decibel limit, between 50 and 55,
 7 there's really an important qualitative difference for the
 8 people who live near this project. Fifty-five (55)
 9 decibels, at least according to the evidence that I've
 10 seen, is akin to having the noise of a conversation 5 feet
 11 away from you. And, so that everybody in the elderly
 12 housing community was being asked to say "okay, I'm going
 13 from a quiet suburban neighborhood to a neighborhood where
 14 I can expect, at any time of the day or night, a
 15 conversation 5 feet from my door." And, whereas the 50

16 decibel limit, which, as I said, is very achievable,
17 provides the quiet suburban neighborhood that they're used
18 to. So, I think, in light of that, we have, you know,
19 their own evidence says it's very doable, and will be
20 accomplished anyway. And, it provides a great benefit to
21 the people in the community who are being asked to listen
22 to and see this project. That the 50 decibel limitation
23 is appropriate and lawful and achievable in this case,
24 without any particular skin off of the Applicant's neck,
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24

1 so to speak.

2 So, with that, I would propose that my
3 -- my exhibits will be outlined and described in greater
4 detail as part of my memorandum of law that I will file in
5 ten days. And, I would ask that you have two conditions
6 imposed here. One, that it be constructed as described.
7 And, two, that there be a 50 decibel limitation.

8 Now, the last thing I would say, with
9 respect to the 50 decibel limitation, is that, in the FERC
10 order that they have received in August, there is a
11 condition on sound. And, one of the things that I think
12 concerns the Applicant is that they have inconsistent FERC
13 and SEC conditions. And, that's a reasonable thing to do.
14 I would suggest that the Committee adopt the FERC
15 condition, with the exception that, instead of it being a
16 55 decibel trigger for change, it be a 50 decibel trigger
17 for change. And, when you look at the FERC order, you'll
18 see what I mean by "trigger for change". Because they're
19 allowed to, you know, if they achieve a 50 -- in FERC
20 language, if they hit 55 or exceed 55, they have to do

21 certain things and make reports and deal with it. So,
22 what I would suggest is that you adopt the FERC condition,
23 with the exception that, instead of 55 decibels being a
24 trigger, you select 50. And, that would be my second

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1 request for a condition.

2 And, that's all I have. Thank you.

3 CHAIRMAN BURACK: Very good. Thank you
4 very much, Attorney Roth. Rather than opening this up to
5 discussion at this time from the Committee, I'd like to
6 turn things now to Attorney Pfundstein.

7 MR. PFUNDSTEIN: Thank you, Mr.

8 Chairman. Mr. Stokdyk, may he testify in his current --

9 (Brief off-the-record discussion ensued
10 regarding which table the witness would
11 testify from.)

12 (Whereupon Michael Stokdyk was duly
13 sworn and cautioned by the Court
14 Reporter.)

15 MICHAEL STOKDYK, SWORN

16 DIRECT EXAMINATION

17 BY MR. PFUNDSTEIN:

18 Q. Would you please state your name and business address
19 for the record.

20 A. My name is Michael Alan Stokdyk. And, my business
21 address is 1001 Louisiana Street, in Houston, Texas.

22 Q. And, you are currently employed by Tennessee Gas
23 Pipeline or one of its affiliates?

24 A. That is correct.

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- 1 Q. And, in what capacity, sir?
- 2 A. I am the Manager of Business Development for this
- 3 project.
- 4 Q. And, could you briefly describe your educational
- 5 background.
- 6 A. Yes. I have a Bachelor's degree from Texas A&M
- 7 University in Mechanical Engineering and a Master's in
- 8 Business Administration from the University of Houston.
- 9 Q. Okay. Mr. Stokdyk, your prefiled testimony, which was
- 10 filed with the Application, has been received in
- 11 evidence by agreement of the parties, and will be,
- 12 according to the list of exhibits submitted by the
- 13 Applicant, marked by the stenographer as "Exhibit B".
- 14 And, I just want to ask you very quickly a couple of
- 15 preliminary questions.
- 16 And, was your testimony, in part,
- 17 designed to establish Tennessee has the technical,
- 18 managerial, and financial capability to operate the
- 19 project consistent with law in a certificate that might
- 20 be issued?
- 21 A. Absolutely.
- 22 Q. Okay. And, you address some of the other necessary
- 23 findings in your prefiled testimony as well, is that
- 24 correct?

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- 1 A. I do.
- 2 Q. Okay. And, since it has already been admitted into
- 3 evidence, I don't need to refer to it further.

- 4 Mr. Stokdyk, briefly describe, if you would, what the
5 compressor station will be constructed as?
- 6 A. That is how it will be constructed?
- 7 Q. The components.
- 8 A. The components? There will be a 6,130 horsepower
9 centrifugal compressor driven by a gas turbine. Other
10 major components will be gas coolers, separator, filter
11 separator that is, a backup generator, and other
12 pertinent piping, valves, and so forth.
- 13 Q. And, Mr. Stokdyk, I show you a report of HFP dated
14 November 6, 2008, which has been accepted into evidence
15 as Applicant's "Exhibit H", and to be marked as such.
16 And, ask you if you can identify that report?
- 17 A. Yes, I can. I'm familiar with that.
- 18 Q. Okay. Now, is it your understanding that the Company
19 agrees to construct the compressor station in
20 substantial compliance with section four of that
21 report?
- 22 A. Yes. We are undertaking significant measures with
23 regards to sound to try to minimize those levels.
- 24 Q. Okay. And, could you briefly highlight some of the
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[WITNESS: Stokdyk]

- 1 components in Section 4 that will produce that result?
- 2 A. Sure. With regards to the building itself, for
3 example, we're going to have acoustical treatment to
4 it, it's about a foot thick in total insulation, in
5 order to minimize noise. There will be some large
6 roll-up doors, and we'll be doubling those up, one kind
7 of interior, one exterior, in order to minimize noise.
8 The ventilation openings, we'll have 5 foot long duct

9 silencers installed on those. Going outside the
10 building, the exhaust, as well as the intake stacks,
11 we'll have silencers installed upon them. The piping
12 will be lagged, which means basically sound insulation
13 put upon it on the above-ground portions or it will be
14 buried in order to minimize sound. We'll be installing
15 a gas cooler that has low noise fans, as well as a
16 variable speed or variable frequency drive motor on it,
17 which will also help to limit the amount of sound from
18 the facility.

19 Q. Okay. Mr. Stokdyk, you also filed an application with
20 FERC for this project, did you not?

21 A. Yes, we did.

22 Q. And, was a certificate issued by FERC as of
23 August 28th, 2008?

24 A. Yes, it was.

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[WITNESS: Stokdyk]

1 Q. And, that certificate, or order, rather, will be marked
2 as Applicant's "Exhibit I", and also apparently will
3 ultimately be marked as an exhibit on Public Counsel's
4 list as well. But FERC has a noise level requirement
5 applicable to this compressor station, does it not?

6 A. Yes, it does.

7 Q. And, is that requirement the 55 decibel requirement
8 Public Counsel referred to earlier?

9 A. Yes, it is.

10 Q. And, under the FERC certificate, you could build a
11 facility which was essentially in compliance with that
12 55 decibel level, is that correct?

13 A. Yes. The certificate required us to meet the 55

14 decibel s.

15 Q. Now, the report dated November 6th, marked as or will
16 be marked as Applicant's "Exhibit H", predicts a range
17 of decibel s due to all of the sound mitigation
18 techniques you will be employing in construction, which
19 is different than that 55 decibel federal level, is
20 that correct?

21 A. That is correct.

22 Q. And, what is the range which is predicted in the report
23 marked as "Exhibit H"?

24 A. Given the significant mitigation techniques that we are
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[WITNESS: Stokdyk]

1 employing and the technology of the equipment itself,
2 the report predicts that the overall noise levels will
3 be in the 46 to 48 dB(A) Ldn range.

4 Q. And, I believe you testified earlier -- or, strike
5 that. Is it the Company's agreement to construct the
6 compressor station in substantial compliance with
7 Section 4 of that November 6th report marked as
8 "Exhibit H"?

9 A. The Company will proceed to construct the facilities
10 with the mitigation measures as outlined in that
11 report.

12 Q. Okay. Now, why is it, Mr. Stokdyk, that, although the
13 Company will agree to construct the facility in a
14 manner consistent with Section 4 of that report, why is
15 it problematic for the Company to agree to the decibel
16 level of 50 suggested by Public Counsel?

17 A. Well, there are several reasons that cause problems for
18 us. First, we consider the 55 decibel level that was

19 established by FERC, after careful consideration of the
20 needs basically to protect the residents, while
21 balancing the ability of technology to mitigate noise
22 levels, they struck 55 as being a good balance between
23 those two needs. And, that, again, of course, is
24 applied across all of the United States.

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1 Closely related to the issue that we
2 believe that that is a good level, agreeing to another
3 level in a proceeding such as this, and the other
4 level, of course, being 50 decibels that we're being
5 asked to commit to in this particular proceeding, would
6 cause us a lot of difficulty in all of our other
7 endeavors to build compressor stations throughout the
8 United States. Much as this Committee asked whether we
9 had ever agreed to something less than a 55 decibel
10 limit, when we go in elsewhere, we'll be asked much the
11 same questions. And, it would be extremely difficult
12 for us to explain to homeowners, agencies, committees,
13 such as yourselves, "why it is that we're able to
14 construct and willing to guarantee a 50 decibel level
15 for the good citizens of New Hampshire, whereas we're
16 unwilling or unable to do it elsewhere?" And, we
17 would, in fact, be unable to do it elsewhere, because
18 in other locations you may have a larger compressor
19 station, you may have different type of equipment, such
20 as reciprocating engines. You may have residences that
21 are closer to the compressor station than they are in
22 this particular instance. So, it, again, would be very
23 problematic for us in our businesses elsewhere in the

24 United States. And, as a reminder, we have over
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1 1.4 million horsepower of compression existing at 75
2 locations. And, we're in the process of trying to add
3 other locations in other states as we speak.

4 One of the other reasons is, again, that
5 while the report predicts 46 to 48, it is, as Public
6 Counsel mentioned, it's not -- it's not perfect. It's
7 part art, part science. There are a lot of variables
8 involved. And, such things as weather and ground
9 conditions are just things that are very difficult to
10 predict and to model. And, so, we have some concerns
11 with that side as well.

12 The other issue that I guess we would
13 generally ask the Committee to consider is whether it's
14 a good public policy to require companies that are
15 being cooperative and have gone of their own free will
16 above and beyond to try to be a good neighbor and to
17 install additional equipment, to try to look out for
18 the homeowners, whether it's a good idea to penalize
19 them by having a tougher measure. I would speculate
20 that, if we had instead been planning on more of a bare
21 minimum "meet the 55 decibel standard" in any of our
22 studies, and efforts hadn't shown that, in fact, we
23 were planning to come in significantly below that, that
24 we wouldn't be here talking about whether a 50 decibel

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1 limit was applicable. If all of our studies had said
2 "Oh, gosh, we're putting in all these things and we'll

3 be able to meet 54." Then, I would guess that we would
 4 probably be talking about whether or not 54 or
 5 something of that nature was pertinent. So, I would
 6 just ask that the Committee consider that the message
 7 it sends, and whether companies will be cooperative and
 8 open in their discussions and trying to work with you,
 9 if, in fact, you know, there are additional
 10 restrictions put on because of their, hopefully, what
 11 would be considered to be good behavior.

12 Q. Thank you, Mr. Stokdyk. I show you a document that I
 13 represent to you is the document that we worked on last
 14 night, titled "TGP's Proposed Noise Condition". And, I
 15 would ask you if you would take a look at that, and
 16 then I'd ask you a couple of brief questions. Is this,
 17 in fact, the Company's proposed noise condition that it
 18 would like the Committee to adopt?

19 A. Yes, it is.

20 Q. Okay. And, briefly, does it simply commit the Company
 21 to constructing in substantial conformity with those
 22 parameters contained in Section 4 of the report dated
 23 November 6th? Generally, that is the first provision,
 24 is that correct?

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1 A. Correct.

2 Q. And, generally, the second condition asked for the
 3 finding that "The Applicant shall construct, operate
 4 and maintain the Station so that it remains in full
 5 compliance with applicable FERC sound level
 6 regulations." Is that correct?

7 A. That is correct.

8 Q. And, that is the condition that you would like the
9 Committee to incorporate into the certificate, if it
10 should issue a certificate?

11 A. Yes, we would.

12 MR. PFUNDSTEIN: Mr. Chairman, we would
13 offer the Proposed Noise Condition as an additional
14 exhibit on behalf of the Applicant.

15 CHAIRMAN BURACK: Fine. Thank you. We
16 will mark that as an Exhibit.

17 MR. PFUNDSTEIN: Thank you, Mr.
18 Chairman.

19 CHAIRMAN BURACK: And, we'll call it
20 "Exhibit J".

21 (The document, as described, was
22 herewith marked as Exhibit J for
23 identification.)

24 MR. PFUNDSTEIN: And, I will note for
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1 the record that what has been marked by the Chair as
2 "Exhibit J" actually contains the notation "DRAFT". But,
3 in fact, that is the condition that the Company would
4 like.

5 DIR. IGNATIUS: Excuse me, Mr. Chairman.
6 Is that being circulated?

7 CHAIRMAN BURACK: I will circulate this
8 copy here.

9 MR. PFUNDSTEIN: Oh, I'm sorry. I have
10 additional copies.

11 CHAIRMAN BURACK: You have additional
12 copies? Thank you.

13 (Atty. Pfundstein distributing
14 documents.)

15 DIR. IGNATIUS: Thank you.

16 BY MR. PFUNDSTEIN:

17 Q. Mr. Stokdyk, I only have a couple additional questions
18 for you. Referring to the FERC certificate, which is
19 marked as or will be marked as Applicant's "Exhibit I",
20 I'm going to show you Paragraph 13, on Page 15 of
21 Exhibit I. And, ask you if that is the noise condition
22 in the FERC certificate?

23 A. Yes, it is.

24 Q. And, did the Company accept affirmatively the
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1 certificate issued by FERC?

2 A. Yes, we did.

3 Q. And, in that process, which is required under FERC, did
4 the Company make any filing with respect to what was
5 meant by "take all reasonable efforts to ensure its
6 predicted noise levels"? Did the Company make any
7 filing addressing that particular part in Section 13?

8 A. Yes. When we accepted the certificate, we, since
9 "reasonable efforts" were not really defined in here
10 clearly, we did, in fact, state that "it was our
11 interpretation that "reasonable efforts" meant that we
12 would, in fact, install all of the mitigation equipment
13 that we've been discussing", and basically along the
14 lines of what I outlined a few moments ago.

15 MR. PFUNDSTEIN: Mr. Chairman, I have
16 nothing further of the witness at this time.

17 CHAIRMAN BURACK: Thank you very much.
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18 Attorney Roth.

19 MR. ROTH: I have only a few questions.

20 And, you don't mind if I sit here while I do that?

21 WITNESS STOKDYK: No, that's fine.

22 CROSS-EXAMINATION

23 BY MR. ROTH:

24 Q. I'm going to start from the back and go forward here.

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1 The Proposed Condition Number 2 says the "Applicant
2 shall construct, operate and maintain the Station so
3 that it remains in full compliance with applicable FERC
4 sound level regulations." Do you think that Condition
5 Number 13 requires something more than -- that is FERC
6 Condition Number 13 requires something more than what
7 is proposed as your SEC Condition Number 2?

8 A. No.

9 Q. No?

10 A. (Witness moving head side to side in a negative manner)

11 Q. I guess I disagree, and I'll put that in my memorandum
12 of law. Because I don't believe there's anything in
13 the FERC regulations that says that you have to make
14 reasonable efforts to ensure that your predicted sound
15 levels are not exceeded at the NSAs, because the
16 regulations don't speak about predicted sound levels,
17 they talk about a 55 decibel cut-off, correct?

18 A. It said that -- It specifically references the 55
19 decibels, correct.

20 Q. That's right. And, so, in fact, what you're proposing
21 with Number 2 is to simply have a 55 decibel sound
22 limit, without this condition of "making reasonable

23 efforts to ensure predicted noise levels from the
24 station"?

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1 A. Well, there's --

2 MR. PFUNDSTEIN: Objection, your Honor.

3 I mean, certainly counsel can ask the witness what his
4 understanding of it is. But we can certainly address that
5 issue in our post-hearing memo as well, since I think it
6 really is a legal question and not a factual question of
7 the witness.

8 MR. ROTH: I'm not sure what that
9 objection is, but I'd ask that he answer the question.

10 CHAIRMAN BURACK: Could you repeat the
11 question.

12 BY MR. ROTH:

13 Q. The question is, isn't it true that, since the
14 regulations don't require you to meet -- to take
15 reasonable efforts to ensure predicted noise levels,
16 that what you're proposing with Number 2 is actually
17 less than what is in your FERC certificate? Because
18 the FERC certificate -- your proposed condition speaks
19 only to essentially the regulation, which is a 55
20 decibel, and not reasonable efforts to meet your
21 predicted sound levels, correct?

22 MR. PFUNDSTEIN: Well, the same
23 objection, your Honor.

24 MR. ROTH: Well, he was instructed --

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1 MR. PFUNDSTEIN: He's asking the witness
2 to give --

3 MR. ROTH: He was instructed to answer
4 the question.

5 CHAIRMAN BURACK: Yes, I'm going to ask
6 him to answer the question to the best of his ability,
7 understanding that it's going to a legal matter. And, if
8 you can answer it, that would be fine. If you can't, we
9 understand that it will also be addressed in the legal
10 briefs.

11 MR. PFUNDSTEIN: Thank you, Mr.
12 Chairman.

13 BY THE WITNESS:

14 A. What it says is that we will use reasonable efforts.
15 And, again, as I said, the reasonable efforts to meet
16 those predicted noise levels are not well defined.
17 And, what we have interpreted them through much of the
18 rest of the document to mean is that we will, in fact,
19 install the mitigation devices that we had said we
20 would. Public Counsel may be misconstruing. The
21 particular noise levels that the FERC is referencing
22 there is from the original report that was done, which
23 I believe had noise levels of like 54.7 decibels, which
24 is essentially the same as the 55. So, it's cutting

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1 things pretty finely. And, again, but we interpreted
2 it to mean that we were installing the equipment that
3 we had promised to do.

4 BY MR. ROTH:

5 Q. Okay. That's all I'm trying to --

- 6 A. Yes.
- 7 Q. -- to make sure, that you understand that Number 2
- 8 doesn't give you a pass on installing the equipment
- 9 that is referenced in the November 6 report?
- 10 A. Give us a pass? No, no. Condition Number 1 --
- 11 Q. You're still --
- 12 A. Condition Number 1 says we're installing that
- 13 equipment, yes, sir.
- 14 Q. Okay. Okay. Now, turning to the 50 versus 55. Would
- 15 having a 50 decibel limit in the SEC order cause you
- 16 any unreasonable delay on this project?
- 17 A. Probably to -- I'm speculating as to what actions might
- 18 be taken there. But, yes, it easily could, in that we
- 19 might challenge that, the 50 decibel limitation.
- 20 Q. So, the only delay would be as a result of you
- 21 appealing that order, but not because of construction
- 22 or purchasing or anything like that?
- 23 A. Well, it could be a delay, it could be -- we could
- 24 decide overall to cancel the project.

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- 1 Q. Okay. But that --
- 2 A. So, it could be -- yes, it would not be because of a
- 3 change in materials or something, if we decided to
- 4 proceed forward.
- 5 Q. Okay. And, would a 50 decibel limitation create any
- 6 cost, other than what you've already budgeted and what
- 7 you're considering for this project, aside from your
- 8 deciding to appeal or abandon it?
- 9 A. Well, it would probably cost us immeasurably at other
- 10 locations having to explain --

11 Q. But on this project?
12 A. Well, maybe not for this particular project, no.
13 Q. Okay. And, would the 50 decibel limitation make it
14 impossible for you to comply with the FERC limitation?
15 A. Of course not, since it's below the FERC regulation.
16 But it would, again, we have accepted a certificate
17 that is saying that we will meet 55. And, so, while
18 being at 50 at least does that, it, obviously, is
19 different from the FERC certificate that we've
20 accepted.

21 MR. ROTH: Okay. That's all. Thank
22 you.

23 CHAIRMAN BURACK: Thank you very much,
24 Attorney Roth. Are there members of the Committee who
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1 have any questions for the witness at this time?
2 Commissioner Below.
3 CMSR. BELOW: Thank you, Mr. Chairman.
4 BY CMSR. BELOW:
5 Q. The decibel limit you're referring to is a day/night
6 average, which represents a 24-hour average, is that
7 correct?
8 A. That's correct.
9 Q. Do you have an idea of what the peaks would be over a
10 minute, say? Did you model that or --
11 A. I'm not aware of what it would be. If we need to go
12 into that, we might ask our sound consultant some of
13 that. He has a little more knowledge in that area,
14 obviously.
15 CHAIRMAN BURACK: Okay.

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CMSR. BELOW: Yes.

16

17 CHAIRMAN BURACK: Mr. Pfundstein, do you
18 have a sound expert who could speak to that issue?

19 MR. PFUNDSTEIN: Yes, Mr. Chairman.
20 With us today is Dave Jones, who is the author of the
21 report marked as "Exhibit H", on behalf of the Applicant.
22 And, Mr. Jones would be available to answer any question
23 the Committee might have.

24 CHAIRMAN BURACK: Okay. We will have
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1 him sworn in here.

2 (Whereupon David Jones was duly sworn
3 and cautioned by the Court Reporter.)

4 DAVID JONES, SWORN

5 CHAIRMAN BURACK: Can you answer this
6 question, Mr. Jones?

7 MR. JONES: Sure. Could you repeat the
8 question for me?

9 BY CMSR. BELOW:

10 Q. Did you model or do you have any idea of what the peak
11 noise levels would be, say, over a minute?

12 A. (Jones) Over a minute, okay. Compress stations are
13 continuously operating equipment. So, really, the
14 fluctuations over a period of a minute, due to the
15 compressor station, will be very, very small. The
16 compressor station at steady state operation emits
17 basically a continuous noise. So, the peak level in
18 the short, you know, the one minute average will be
19 very similar to any sort of longer term average.

20 Q. Is there any spike at start-up or I think there's a

21 reference to the venting noise when you decompress for
22 maintenance?

23 A. (Jones) Okay. We do have measurements of similar
24 equipment during start-up. And, obviously, the sound
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1 level actually ramps up relatively smoothly. There are
2 no -- no real sharp peaks or impulsive noises
3 associated with start-up. The blowdown silencer is
4 used when the unit is shut down for some length of
5 time, they use the blowdown silencer. So, it's used
6 infrequently. The blowdown has a silencer. It's been
7 specified to meet 45 dB(A) at 300 feet, I believe, from
8 the silencer. And, so, while that will be sort of a
9 peaky noise, the actual levels at the residences will
10 be very low, will be well below 45.

11 CMSR. BELOW: Okay. Thank you.

12 CHAIRMAN BURACK: Other questions?

13 Mr. Scott.

14 BY DIR. SCOTT:

15 Q. What I notice in the different consulting reports on
16 the noise, it seems all predicated on the doors, the
17 garage doors -- it seems predicated on the overhead
18 doors at the facility being closed. And, if that is
19 correct, are there some assurances -- what assurances
20 would the Committee have that the compressor station,
21 the turbines won't be in operation when those doors are
22 opened?

23 A. (Stokdyk) I can state, from having been to stations
24 that, you know, they would normally operate with those
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1 doors being closed. Whether they might be opened
2 momentarily for someone to bring in some equipment or
3 something, that might occur. But that wouldn't be a
4 long-term operating status.
5 Q. So, is there some --
6 DIR. SCOTT: If I could follow up?
7 CHAIRMAN BURACK: Please.
8 BY DIR. SCOTT:
9 Q. So, is there some operating procedure or something at
10 that facility that the doors will remain closed, except
11 when exiting or entering, that type of thing?
12 A. (Stokdyk) I'm not aware of any hard and fast written
13 procedures, but it does seem to be the norm.
14 DIR. SCOTT: Thank you.
15 CHAIRMAN BURACK: Other questions?
16 Director Ignatius.
17 DIR. IGNATIUS: Thank you.

18 BY DIR. IGNATIUS:
19 Q. Mr. Stokdyk, how close is the nearest residence to the
20 compressor station?
21 A. (Stokdyk) There are several that are roughly 600 feet
22 away.
23 Q. And, when you use the phrase "measured at the nearest
24 receptor" or something, the receptor would be the
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1 household that's 600 feet away?
2 A. (Stokdyk) Yes.
3 Q. Are you assuming open windows? Closed windows? Is it
4 the outside of the house or the inside? Is it outside

- 5 at the property line or is it the household itself?
6 Can you define that for us please?
- 7 A. (Stokdyk) Yes. It would be somebody that would be
8 standing outside of that building, say, at the -- right
9 at those limits, the, say, 600 foot limit.
- 10 Q. Of the property line?
- 11 A. (Stokdyk) My understanding is that it is to the house
12 itself. Is that correct, Dave?
- 13 A. (Jones) That's correct. It's actually at the
14 residence. Outside of the residence, but measured at
15 the same distance from the station as the residential
16 structure.
- 17 Q. All right. So, if someone were, I don't know how big
18 the property is, but if someone were closer from the
19 house towards the compressor, it would be somewhat
20 louder?
- 21 A. (Jones) That's right.
- 22 Q. Mr. Jones, can you -- is there any way to give us any
23 sense of what those different levels mean? It's very
24 hard for me to, on any of these sound issues that we

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- 1 face, to get a sense of what it really means as a
2 layperson between 50 and 55, or 45?
- 3 A. (Jones) Yes. And, we need to be careful about our
4 terms and our units. The FERC limit is a 24-hour Ldn,
5 as was noted earlier. And, so, that's actually a
6 24-hour average, but it includes a ten decibel penalty
7 for any nighttime noise. So, that's any noise that
8 happens between 10:00 p.m. and 7:00 a.m.
- 9 So, what that means is, if you were, you

10 know, standing in a field with a sound level meter, and
 11 you were taking a measurement, you wouldn't necessarily
 12 be measuring the Ldn. You know, the level -- You know,
 13 the number that would pop up on the sound level meter,
 14 you know, that's the instantaneous sound level. That's
 15 that level right then. If you average that over 24
 16 hours, you added a ten decibel penalty for the
 17 nighttime noise, a continuous sound, like from a
 18 compressor station, puts out basically the same sound,
 19 if it operates all day, it's putting out the same sound
 20 all day. If you measured that continuously, the
 21 24-hour Ldn will actually be somewhat higher than the
 22 number you measure right there. The FERC limit is 55
 23 Ldn. If you measure with the sound level meter
 24 instantaneously, it would be 48.6 dB(A) LEG. So,

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1 that's the short -- the short measure.
 2 To give you some idea of what that's
 3 like, the existing levels in the area are in the mid --
 4 the Ldn, the background sound level, as reported by
 5 TetraTech, are somewhere in the mid 40s. So, 45 to 46
 6 or so. That's pretty quiet. That's like a suburban
 7 neighborhood, a wooded suburban neighborhood. Typical
 8 urban environments are 60 or 65 or 70 Ldn, maybe.
 9 There are many different, you know, depending on where
 10 you happen to be. The sound level in this room right
 11 now, if we're all quiet, I can say due primarily to
 12 this HVAC noise, is probably somewhere in the mid 40s,
 13 if you measured it with a sound level meter. But the
 14 Ldn for that would probably be then in the, you know,

15 51 or 50 range, probably. So, that gives you some sort
16 of some idea of that.

17 Q. And, when you said the 24-hour average includes a ten
18 point penalty, a ten decibel penalty, we don't have the
19 -- we don't have the FERC order, so I'm sort of
20 guessing here what all this means. Is it that the
21 plant, that the operation won't be going in the
22 evening, or is it that it's a penalty if it goes above
23 a certain sound level in the evening?

24 A. (Jones) Well, no, and perhaps "penalty" is the wrong
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[WITNESSES: Stokdyk|Jones]

1 word. What I meant is it's a metric. You know, it's a
2 unit of measurement. It's like an inch or a foot or a
3 meter. But, the Ldn, the way you calculate the Ldn is
4 you add ten dB, that's what I meant by a "penalty", but
5 you actually just add ten decibels to any of the sound
6 levels that you measure at night. Okay?

7 So, it's intent, the intent of the Ldn
8 is to give you a single number that you can correlate
9 to long-term exposure to environmental sounds. And,
10 you can try and figure out how people are going to
11 respond to those sounds. So, obviously, people are
12 more sensitive to sounds at night. I think we can, you
13 know, agree to that. And, so, when they built this Ldn
14 metric, when the EPA came up -- well, I don't know if
15 the EPA came up with it, but when it was formalized
16 kind of in the early '70s, they decided that it was a
17 good idea to add this ten dB to any sound measured at
18 night, and then you average it all together to get this
19 single number. Does that make sense?

20 DIR. IGNATIUS: So, if I may?

21 CHAIRMAN BURACK: Please.

22 BY DIR. IGNATIUS:

23 Q. To someone living in a house, one of those near
24 households, what would be the allowable sound limit,
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[WITNESSES: Stokdyk|Jones]

1 taking a measurement right there, at 9:00 at night, is
2 there an allowable sound limit for a particular hour or
3 is it only a --

4 A. (Jones) For a particular instant?

5 Q. Yes.

6 A. (Jones) Well, you know, if you can make the assumption
7 that the thing you're measuring is going to run 24
8 hours, and we always do. I mean, we always assume that
9 the station will at some point have to run all day and
10 all night. Then, at that particular instant, you would
11 need to measure 48.6 or less. Because, if you take
12 that 48.6, you average it out all the way through those
13 24 hours, you add ten dB to the nine hours between
14 10:00 p.m. and 7:00 a.m., if you logarithmically
15 average them all together, you get 55.

16 CHAIRMAN BURACK: Mr. Jones, could you
17 just clarify for us what "Ldn" stands for?

18 WITNESS JONES: It stands for "24-hour
19 day/night level. So, it's "Level day/night", is what the
20 "Ldn" is for.

21 CHAIRMAN BURACK: Thank you. Are there
22 other questions for Mr. Stokdyk or Mr. Jones? Attorney
23 Iacopino.

24 MR. IACOPINO: I have questions, and
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[WITNESSES: Stokdyk|Jones]

1 whoever, and, Mr. Pfundstein, you may need to answer some
2 of these for us. I just want to make sure the record is
3 complete. It's my understanding that the Department of
4 Environmental Services has issued an Air Permit for this
5 project, is that correct?

6 MR. PFUNDSTEIN: That is correct.

7 MR. IACOPINO: There has also been a
8 final Alteration of Terrain Permit issued, is that
9 correct?

10 MR. PFUNDSTEIN: We have not seen the
11 final permit. I believe one of our consultants had
12 information that the agency was providing it to this
13 Committee. But that's the best of my information.

14 MR. IACOPINO: So, there is -- I know
15 that we did receive a progress report with respect to an
16 Alteration of Terrain Permit. But you have not yet
17 received the final permit?

18 MR. PFUNDSTEIN: No, we have not.

19 CHAIRMAN BURACK: Director Stewart, do
20 you want to speak to this?

21 DIR. STEWART: I think, typically, we
22 would provide conditions to the Committee, as opposed to a
23 permit for the terrain alteration, and also wetlands and
24 subsurface. In this case, there is no Wetlands Permit.

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1 But there is a Subsurface Permit for the on-site
2 wastewater and terrain alteration.

3 MR. IACOPINO: But has --

4 DIR. STEWART: And, just to clarify, I
5 do believe that Subsurface did issue a permit.

6 MR. IACOPINO: Yes.

7 DIR. STEWART: But they really kind of
8 got ahead of the process in that regard.

9 MR. IACOPINO: I guess what I'm looking
10 for is the final conditions on the Alteration of Terrain,
11 so that, as a Committee, you all can include them, if you
12 so choose, in the ultimate order that issues.

13 DIR. STEWART: Yes, and I need to check
14 with Rob Tardiff as to exactly where that is. And, I'm
15 not sure.

16 MR. IACOPINO: And, we've also received
17 correspondence from the New Hampshire Division of Historic
18 Resources indicating that you complied with their requests
19 as well.

20 MR. PFUNDSTEIN: That is correct.

21 MR. IACOPINO: What I'm going to
22 suggest, Mr. Chairman, is that the air permit, the final
23 conditions on the -- that exhibits be reserved for the
24 final Air Permit, the Alteration of Terrain final

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1 conditions, the Subsurface Waste Permit, the
2 correspondence from the Division of Historical Resources.
3 And, I'm going to -- I'm going to suggest that to the
4 Committee that we do that so that those exhibits become
5 part of the record for this proceeding and can be relied
6 upon in your order.

7 (Whereupon Exhibit K through Exhibit N

1201-TGP.txt
8 were reserved for exhibits to be filed.)
9 MR. IACOPINO: My next question, if I
10 may, is to Mr. Stokdyk.
11 BY MR. IACOPINO:
12 Q. We have presented to us the FERC "Order Issuing
13 Certificate" from FERC on August 28, 2008. That Order
14 makes reference to an environmental assessment
15 performed by the staff at the Federal Energy Regulatory
16 Commission. How large is that environmental
17 assessment?
18 MR. PFUNDSTEIN: It's about
19 three-quarters of an inch thick.
20 MR. IACOPINO: Looks like it could be
21 presented as an exhibit --
22 MR. PFUNDSTEIN: Absolutely.
23 MR. IACOPINO: -- in this proceeding.
24 MR. PFUNDSTEIN: Absolutely.

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1 MR. ROTH: Mr. Iacopino, I did include a
2 part of it, --
3 MR. IACOPINO: Did you?
4 MR. ROTH: -- with respect to air and
5 noise quality. And, that's my Exhibit Number 2.
6 MR. PFUNDSTEIN: The Applicant would be
7 happy to file the entire EA.
8 MR. IACOPINO: Okay. Is there any
9 objection to that?
10 MR. ROTH: No, none whatsoever.
11 CHAIRMAN BURACK: Thank you. If you
12 would do that, we will also mark that as an additional

13 exhibit.

14 BY MR. IACOPINO:

15 Q. And, finally, with respect to FERC exhibits, there's a
16 Landscape and Site Screening Study that is supposed to
17 be accomplished. Has that been completed?

18 A. (Stokdyk) Yes, it has.

19 Q. And, could that be presented as well?

20 MR. PFUNDSTEIN: If we haven't already
21 filed it, we'll certainly do so.

22 MR. IACOPINO: Okay. Well, and some of
23 the things that I've referenced actually we have in our
24 files, but have not been marked as exhibits. And, part of
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[WITNESSES: Stokdyk|Jones]

1 what I'm trying to do is just make sure that the record is
2 clear so that we can refer to them.

3 So that, Mr. Chairman, I would
4 respectfully suggest that, when we receive the FERC
5 Environmental Assessment and the FERC Landscape and Site
6 Screening Plan be marked as the next two exhibits.

7 (Whereupon Exhibit O and Exhibit P were
8 reserved.)

9 MR. ROTH: Mr. Iacopino, can I ask a
10 question of Attorney Pfundstein about the Landscaping
11 Plan? At one of the technical sessions, we looked at a
12 plan that had been provided, and there were some changes
13 to that plan that I noted on my copy. And, I'm just
14 wondering if what you will submit will reflect those
15 changes or whether it will be the old one? For example,
16 the gas cooler showed six fans, and I was -- or, blowers,
17 and I was told that five of those would be eliminated, and

18 that the blowdown silencer was being put in a different
19 location.

20 MR. PFUNDSTEIN: Okay. Mr. Chairman,
21 Thomas Fillip, the Project Engineer, is here with us, and
22 I think he'd be the appropriate person to respond to
23 Attorney Roth's questions.

24 CHAIRMAN BURACK: Okay. Let's swear the
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[WITNESSES: Stokdyk|Jones|Fillip]

1 witness in first then, please.

2 MR. ROTH: It's really just a mechanical
3 question. I don't know if you need to swear him in.

4 CHAIRMAN BURACK: I'd like to have him
5 sworn.

6 (Whereupon Thomas Fillip was duly sworn
7 and cautioned by the Court Reporter.)

8 THOMAS FILLIP, SWORN

9 WITNESS FILLIP: The plan can be changed
10 to reflect those changes that we've made, what is shown.

11 MR. PFUNDSTEIN: So, just so I
12 understand, Mr. Chairman. Mr. Fillip, was the plan
13 changed to show those changes that Attorney Roth made or
14 are you saying that we could change the plan?

15 WITNESS FILLIP: We could change. I
16 have not seen a plan that shows the landscaping with the
17 new equipment locations on it.

18 MR. PFUNDSTEIN: Those changes, would
19 that in any way affect the landscaping shown on the plan?

20 WITNESS FILLIP: Not to my knowledge.

21 MR. PFUNDSTEIN: Okay.

22 CHAIRMAN BURACK: Okay. Thank you.

23 BY MR. IACOPI NO:

24 Q. And, Mr. Stokdyk, in Appendix A to the FERC
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[WITNESSES: Stokdyk|Jones|Fillip]

1 Certificate, there is a number of filings that your
2 company is required to make with FERC. And, they
3 include alignment sheets. They include a description
4 of mitigation measures, or during -- during
5 construction, biweekly environmental inspector reports,
6 blowdown vent silencer design specs. Have all of those
7 FERC requirements been fulfilled? Obviously, the
8 periodic inspections haven't been fulfilled, because
9 you haven't construction. But, with the exception of
10 that, have all of those documents been filed with FERC?

11 A. (Stokdyk) I believe that we are still preparing some of
12 the final documents for submission. For example, the
13 blowdown vent silencer, which we are just finalizing
14 the order on and so forth. So, they will be shortly,
15 but have not been yet.

16 Q. And, do you have any -- do you any problem filing those
17 with this Committee concurrently as you file them with
18 FERC?

19 MR. PFUNDSTEIN: No objection. We're
20 happy to provide copies when they're filed.

21 CHAIRMAN BURACK: Thank you. Okay.

22 And, do I understand that you will also provide an updated
23 copy of the Landscape Plan or a plan showing the revised
24 location of equipment?

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[WITNESSES: Stokdyk|Jones|Fillip]

1 CMSR. BALD: Mr. Chairman, while they're
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2 chatting?

3 CHAIRMAN BURACK: Yes.

4 CMSR. BALD: I do have to leave. But
5 are going to, it's just I have a 2:00 meeting, so I'm not
6 sure what the plan was.

7 MR. PFUNDSTEIN: Mr. Chairman.

8 CHAIRMAN BURACK: Go ahead,
9 Mr. Pfundstein.

10 MR. PFUNDSTEIN: To respond to your
11 question on the Landscaping Plan, as soon as that is
12 prepared, it will be filed. To respond to Committee
13 Counsel's questions on Appendix A filings, when they are
14 filed -- when they are prepared and ready to filed with
15 FERC, we're happy to file copies here as well.

16 CHAIRMAN BURACK: Very good. Thank you
17 very much.

18 (Whereupon Exhibit Q was reserved for
19 the filings made at FERC as noted in
20 Appendix A to the FERC Certificate.)

21 CHAIRMAN BURACK: Returning to
22 Commissioner Bald's question, my intention here
23 momentarily is to see if there's any public comment. And,
24 assuming that there is, we'll hear it. If there's not, we

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1 will immediately just make sure we have concurrence on
2 what the filing schedule is going forward. We will
3 clearly need to set, once we have received those filings,
4 we will, as a Committee, need to review those, and then
5 set a separate date for us to have a deliberative session
6 on this matter.

7 But, unless I'm missing something, I
8 believe we will be able to close our adjudicative
9 proceeding today. And, so, Commissioner Bald, if you do
10 need to depart, we certainly understand, and I think we're
11 going to hope to close this hearing momentarily in any
12 event.

13 Attorney Pfundstein, do you have
14 anything further you need to present in terms of evidence
15 at this time?

16 MR. PFUNDSTEIN: No, Mr. Chairman.

17 CHAIRMAN BURACK: Okay. Do you have any
18 further, Mr. Roth?

19 MR. ROTH: Nothing further, Mr.
20 Chairman.

21 CHAIRMAN BURACK: Okay. Thank you. Is
22 there any members of the public who wish to be heard at
23 this time?

24 (No verbal response)

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[WITNESSES: Stokdyk|Jones|Fillip]

1 CHAIRMAN BURACK: Very good. Seeing
2 none -- what's that? Mr. Stewart, did you have a comment?

3 DIR. STEWART: Yes, I was holding off
4 until the noise questions were completed.

5 CHAIRMAN BURACK: Oh, I'm sorry.

6 DIR. STEWART: So, -- No, that's okay.

7 DIR. IGNATIUS: And, Commissioner, I'm
8 sorry.

9 CHAIRMAN BURACK: Yes.

10 DIR. IGNATIUS: But before, I do have
11 one other noise question, if I may?

12 CHAIRMAN BURACK: Okay. I don't want to
13 cut those off. We can certainly hear these questions.

14 We'll go to Director Ignatius and then to Mr. Stewart.

15 DIR. IGNATIUS: Thank you.

16 BY DIR. IGNATIUS:

17 Q. Mr. Stokdyk, what monitoring is going to be done to
18 ensure that the levels, however they're ultimately set,
19 are being complied with?

20 A. (Stokdyk) We're required to go in within two months
21 after in-service, and test to make sure that it
22 complies with the 55 decibels. And, if it should not,
23 we would have 12 months in order to rectify that. And,
24 then, we have an ongoing obligation to continue to
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[WITNESSES: Stokdyk|Jones|Fillip]

1 conform to that 55 decibel limitation.

2 Q. So, is there monitoring only of the construction site,
3 the compressor station itself, or is there monitoring
4 at the household level?

5 A. (Stokdyk) The testing would be done at the NSAs, when
6 you go out post-construction and test. That's --

7 Q. I don't know what "NSA" stands for?

8 A. (Stokdyk) It's the noise receptors.

9 Q. Households?

10 A. (Stokdyk) Yes.

11 Q. Thank you.

12 A. (Stokdyk) I'm sorry. Sorry about that. Residences.

13 DIR. IGNATIUS: All right. Thank you.

14 WITNESS STOKDYK: Sure.

15 CHAIRMAN BURACK: Thank you. Director
16 Stewart.

17 DIR. STEWART: Just a point of order.
18 What is our time frame? I know we're past the 20 minutes
19 of 12:00.

20 CHAIRMAN BURACK: I would like to
21 conclude, if we can, whatever adjudicative process we need
22 today, in terms of questions for witnesses. So, if there
23 is additional information you would like to get on the
24 table, in the order, I'd just as well proceed in doing

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[WITNESSES: Stokdyk|Jones|Phillip]

1 that.

2 DIR. STEWART: Okay.

3 CHAIRMAN BURACK: Okay?

4 DIR. STEWART: My questions are directed
5 at the question of porous pavement. Counsel at the
6 technical session raised that question, Public Counsel,
7 excuse me. And, in reviewing the responses, I have a
8 number of questions.

9 BY DIR. STEWART:

10 Q. One pertains to the location of the project. This
11 project is in the Beaver Brook Watershed. And, looking
12 at the USGS maps, I couldn't determine, but I think I
13 know, where the Beaver Brook Watershed or where Beaver
14 Brook flows to. And, can somebody describe that? The
15 USGS map ends. And, I think it flows to the east, and
16 crosses under I-93 in Salem, but I'm not positive of
17 that.

18 MR. PFUNDSTEIN: Mr. Chairman, one of
19 our environmental consultants, John Zimmer, is nodding
20 that he knows the answer to the question.

21 CHAIRMAN BURACK: Wonderful. Could we

22 please swear him in as a witness.

23 (Whereupon John Zimmer was duly sworn

24 and cautioned by the Court Reporter.)

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[WITNESSES: Stokdyk|Jones|Phillip|Zimmer]

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1 JOHN ZIMMER, SWORN

2 BY THE WITNESS:

3 A. (Zimmer) Your assessment was correct. It does flow
4 down in that direction.

5 BY DIR. STEWART:

6 Q. Okay. Thank you. And, the point of that is that the
7 -- that we have, in the I-93 corridor, impaired water,
8 caused by chloride, which is a road salt phenomenon.
9 In the response to counsel, there's no mention of New
10 Hampshire applications of porous pavement. And, I'm
11 familiar with -- the University of New Hampshire has a
12 Storm Water Center, which has really a pilot area, a
13 parking area, that is, in fact, porous pavement for
14 evaluation of porous pavement applications in New
15 Hampshire. And, I believe there's another shopping
16 mall in the Seacoast area that either has planned or
17 has installed porous pavement. So, I think the answer
18 has to be -- my point is that the answer is incomplete
19 relative to New Hampshire applications. I think it
20 would be useful to improve the response in that regard.

21 A question relative to the cost of
22 porous pavement. I see some incremental estimates of
23 cost per yard for the porous asphalt, versus the
24 impervious asphalt. And, I'm wondering what the total

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1 cost is for substituting conventional asphalt with
2 porous asphalt?

3 CHAIRMAN BURACK: Do you have answers to
4 any of those questions? This may be something which
5 you're going to need to provide supplemental information.

6 MR. PFUNDSTEIN: Mr. Chairman, perhaps
7 the most efficient and accurate way to do that would be to
8 update our response to that data request dealing with this
9 subject.

10 DIR. STEWART: And, well, one more
11 incremental question on that, is what is the cost relative
12 to the overall project cost?

13 CHAIRMAN BURACK: That is, what will be
14 the incremental cost of porous versus traditional?

15 DIR. STEWART: Conventional. And, then,
16 what is the cost of the -- of the paving, or the paving,
17 plus the porous, relative to the overall project cost of
18 the entire project? That's really all I had, to add those
19 points.

20 CHAIRMAN BURACK: Thank you. Director
21 Normandeau.

22 DIR. NORMANDEAU: Just a point. We've
23 been using porous pavement with Fish & Game. We just
24 finished using it in a facility down at the Seacoast,

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1 Great Bay Discovery Center. It's pretty impressive stuff
2 although it does require maintenance. And, we are going
3 to be proposing it on a lot of our boat ramp projects
4 going forward. And, so, there's definitely a lot of

5 information out there to be gotten about that.

6 CHAIRMAN BURACK: Thank you, Director
7 Normandeau. Any other questions or comments from members
8 of the Committee?

9 (No verbal response)

10 CHAIRMAN BURACK: Okay. Just want to go
11 back to the same -- I'm sorry. Mr. Knepper.

12 MR. KNEPPER: I just have one.

13 BY MR. KNEPPER:

14 Q. In the testimony, you said that this is going to be a
15 peak shaving type operation for the compressor station,
16 is that right?

17 A. (Stokdyk) And, I believe what I said is that,
18 initially, since it's compressing only, you know, above
19 200 million a day to get up to that 230 level, that we
20 wouldn't expect it to run a lot. And, so, I didn't
21 expect it to run a lot initially. But did want to make
22 clear that it can run all day and all night, and on
23 certain days, and, in the longer term, as the energy
24 needs of New Hampshire grow, it could become more of an

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[WITNESSES: Stokdyk|Jones|Phillip|Zimmer]

1 intermediate or, you know, higher load type of a unit.

2 Q. It could be as small as a few hours a year, it could be
3 days. Probably not, suffice to say, it's not going to
4 be year-round, it's not going to be nine months. The
5 loads up here depreciate substantially, magnitudes of
6 ten, as soon as it gets warmer.

7 A. (Stokdyk) Uh-huh.

8 Q. So, I assume it's not economical to run it during that
9 time, there's no need. And, so, it wouldn't be run.

10 Correct?

11 A. (Stokdyk) Correct.

12 Q. Okay. So, but at this point in time, you don't know

13 how long, from the start-up and stopping of this, this

14 is going to happen?

15 A. (Stokdyk) That will be totally predicated upon the load

16 conditions in the state, which, as you're kind of

17 referring to, are largely driven by weather. So, --

18 Q. Right. And, I just wanted to make sure, when you were

19 talking about the noise levels, and this equipment

20 being run continuously, do you just mean like within a

21 day or an hour period or did you mean year-round? That

22 was directed to you.

23 A. (Jones) Well, the --

24 Q. Because these aren't compressors that are like down in

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[WITNESSES: Stokdyk|Jones|Phillip|Zimmer]

1 Texas, where they're used to push gas across the

2 country. This is -- We're at the end. This is just

3 used to meet basically some weather.

4 A. (Jones) Right. Well, we don't really address when or

5 how often the compressor runs.

6 Q. Okay.

7 A. (Jones) In our calculations, we're assuming the

8 compressor runs for a 24-hour period, because it's a

9 24-hour metric.

10 Q. Okay.

11 A. (Jones) The Ldn is a 24-hour metric. We're assuming

12 that the station is in operation that entire time.

13 Q. Okay.

14 A. (Jones) If the station is not, if it only runs a few

15 hours during the day, then it's going to contribute a
 16 lot less to the Ldn than the levels we predict, because
 17 we're saying it's going to run the entire 24 hours. If
 18 it only runs a couple hours, then, you know, obviously,
 19 to a 24-hour average, the levels are going to drop a
 20 lot, the predicted levels.

21 MR. KNEPPER: Thank you.

22 CHAIRMAN BURACK: Director Ignatius.

23 BY DIR. IGNATIUS:

24 Q. Well, I don't want to belabor this, but that seems to
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1 be a very important clarification. If you're measuring
 2 things on the basis of an average over 24 hours,
 3 conceivably, you could have one hour that's, you know,
 4 extremely high and be within the low level over the
 5 course of the 24 hours, is that correct? And, if not,
 6 please explain why. Because I'm disturbed at the
 7 thought that it's an average, 23 hours of which it's
 8 not even running.

9 A. (Jones) No, that's very fair. It is a logarithmic
 10 average. So, it's not like a numerical average, where,
 11 if you run for an, you know, at 60 dB and then you run
 12 for an hour at 30 dB, you don't just average those two
 13 together, numerically, to get 45 or something. You
 14 have to -- It's actually a logarithmic average. And,
 15 what happens is that, even a very brief period of very
 16 high noise levels will cause the entire average to bump
 17 up a lot more than in a standard average. I don't
 18 really know how to complain it other than that.

19 But, I mean, it's important to note that

20 our predicted levels, you know, we're predicting the
 21 station sound level. To get the Ldn, we assume that
 22 the station is running 24 hours. But the actual -- the
 23 computer model, you know, is just the station is
 24 operating. So, if we don't do something where we say
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[WITNESSES: Stokdyk|Jones|Phillip|Zimmer]

1 "we're assuming the station is operating in a very
 2 noisy fashion for a very brief time", we're assuming
 3 that the station is operating continuously for those 24
 4 hours to get our calculated levels.

5 And, when we measure compliance, you
 6 know, we operate the station at full load, and we go
 7 and we measure at all of the residences. So, you know,
 8 we typically, because the levels are actually pretty
 9 low, these, the kind of levels we're trying to measure,
 10 we have to get a day with calm weather conditions, so
 11 we're only measuring station contribution. And, then,
 12 we have to get the right kind of pipeline conditions,
 13 so we can actually operate the station at full load,
 14 and then we go and measure at each of the houses.

15 Q. So, is it fair that at any of the residences at that
 16 600 foot level, distance from the station, at any given
 17 time of operation, whether it's been running all week
 18 long or just for an hour, that it is unlikely to be
 19 above the 48.5, whatever number you gave before,
 20 somewhere in that range, a dB(A) level?

21 A. (Jones) Yes. That's very fair.

22 DIR. IGNATIUS: All right. Thank you.

23 CHAIRMAN BURACK: Thank you. Any

24 further questions for Mr. Stokdyk or any of the other

[WITNESSES: Stokdyk|Jones|Phillip|Zimmer]

1 witnesses?

2 (No verbal response)

3 CHAIRMAN BURACK: Okay. Attorney
4 Pfundstein, do you have anything further you wish to
5 present at this time?

6 MR. PFUNDSTEIN: No, Mr. Chairman.

7 CHAIRMAN BURACK: Mr. Roth, do you have
8 anything further?

9 MR. ROTH: No, Mr. Chairman.

10 CHAIRMAN BURACK: Member of the public,
11 any further opportunity for question or comments?

12 (No verbal response)

13 CHAIRMAN BURACK: Okay. Very good. We
14 will -- I just want to confirm that we will expect the
15 parties to file post-hearing memoranda regarding noise,
16 both parties to file by December 11, 2008, and that each
17 will be entitled, if they choose to do so, to file reply
18 memos with the Committee not later than December 15, 2008.
19 I think, in light of this, and, obviously, there are
20 additional documents that are to be filed by the
21 Applicant, we will hope to receive all of those within a
22 month or so. I think, realistically, we will be looking
23 to, and we're going to have to poll Committee members to
24 find out when this can occur, we will hope that we're able

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1 to convene sometime in January to actually deliberate on
2 this, on this matter. I think that would likely be our
3 schedule moving forward.

4 MR. ROTH: Mr. Chairman, one point of
5 mechanics. When will the reporter be able to produce a
6 transcript of today's hearing?
7 (Whereupon a brief off-the-record
8 discussion ensued regarding production
9 of the transcript, and the reporter
10 indicated it would be delivered by
11 Monday, December 8, 2008.)
12 CHAIRMAN BURACK: Okay. So, we are
13 certainly aware of -- we'll ask the stenographer here to
14 provide the transcript as quickly as possible, ideally
15 within a week, and make sure that those are available to
16 the parties for consideration for filing the briefs. And,
17 so, hearing nothing further, we will stand adjourned.
18 Thank you.
19 MR. PFUNDSTEIN: Thank you, Mr.
20 Chairman.
21 (Whereupon the hearing was adjourned at
22 11:57 a.m.)
23
24

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